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To:

NAME:	FACSIMILE:	TELEPHONE:
Mail Stop Amendment U.S. Patent and Trademark Office	703-872-9306	571-272-4802

FROM: Mika Mayer

DATE: January 19, 2005

Number of pages with cover page: 7	
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Comments:

OFFICIAL FILING

Examiner M. Patel
Art Unit: 3743
Re: U.S. Patent Application No. 10/827,073
Title: METHODS AND DEVICES FOR IMPROVING BREATHING IN PATIENTS WITH PULMONARY DISEASE
Filing Date: April 19, 2004
Inventors: Rajiv DOSHI
Attorney Docket No. 578632000201

Papers enclosed herewith:

1. Transmittal - 1 page
2. Fee Transmittal + duplicate copy for fee processing - 2 pages
3. Response to Restriction Requirement - 2 pages
4. Petition for Extension of Time, one month - 1 page

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PTO/SB/21 (39-04)

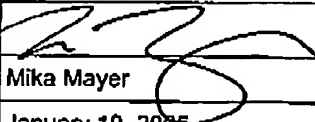
Approved for use through 07/31/2006. OMB 0851-0031

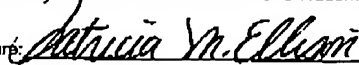
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<h2>TRANSMITTAL FORM</h2> <p>(to be used for all correspondence after initial filing)</p>		Application Number	10/827,073
		Filing Date	April 19, 2004
		First Named Inventor	Rajiv DOSHI
		Art Unit	3743
		Examiner Name	M. Patel
Total Number of Pages in This Submission	6	Attorney Docket Number	578632000201

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form + duplicate copy for fee processing - 2 pages <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply - 2 pages <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request - 1 page <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD. Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Fax cover sheet
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	MORRISON & FOERSTER LLP (Customer No. 25226)		
Signature			
Printed name	Mika Mayer		
Date	January 19, 2005	Reg. No.	47,777

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 872-9306, on the date shown below.	
Dated: January 19, 2005	Signature:  (Patricia M. Ellison)

pa-950210

PTO/SB/17 (12-04)
Approved for use through 7/31/2005. OMB 0851-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4618).

FEE TRANSMITTAL

For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT		(\$)		60.00
Application Number		10/827,073		
Filing Date		April 19, 2004		
First Named Inventor		Rajiv DOSHI		
Examiner Name		M. Patel		
Art Unit		3743		
Attorney Docket No.		578632000201		

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 03-1952 Deposit Account Name: Morrison & Foerster LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or any underpayment of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0.00
Design	200	100	100	50	130	65	0.00
Plant	200	100	300	150	160	80	0.00
Reissue	300	150	500	250	600	300	0.00
Provisional	200	100	0	0	0	0	0.00

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
34	- 34 = 0	x 25 =	0.00	180		0.00

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
6	- 6 = 0	x 100 =	0.00

3. APPLICATION SIZE FEE

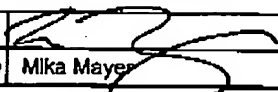
If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/50	(round up to a whole number) x		0.00

4. OTHER FEE(S)

Other	Fees Paid (\$)
Non-English Specification. \$130 fee (no small entity discount)	0.00
Other: 2251 Extension for response within first month	60.00

SUBMITTED BY

Signature	Registration No. (Attorney/Agent)	Telephone
	47,777	(650) 813-4298
Name (Print/Type)	Date	
Mika Mayer	January 19, 2005	

pa-950208

JAN 19 2005

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Dated: January 19, 2005

Signature:

Patricia M. Ellison (Patricia M. Ellison)

Docket No.: 578632000201
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Rajiv DOSHI

Application No.: 10/827,073

Confirmation No.: 1880

Filed: April 19, 2004

Art Unit: 3743

For: METHODS AND DEVICES FOR IMPROVING
BREATHING IN PATIENTS WITH
PULMONARY DISEASE

Examiner: M. Patel

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Restriction Requirement mailed December 6, 2004 (Paper No. 11302004), requiring restriction of pending claims 1-34. A response was due on January 6, 2005. Filed herewith is a Petition and fee for a one month extension of time, thereby extending the deadline for response up to and including February 6, 2005. Accordingly, this response is timely filed.

pa-950205

Application No.: 10/827,073

2

Docket No.: 578632000201

The Examiner has required restriction to one of the following inventions:

I. Claims 1-25, drawn to a device for treating a patient with a breathing disorder, classified in class 128, subclass 848.

II. Claims 26-34, drawn to a method of reducing breathing rate in a sleeping patient and a method of increasing oxygen saturation in a patient, classified in class 128, subclass 200.24.

Applicant hereby elects Group I (claims 1-25), without traverse. Applicant expressly reserves the right to file a divisional application directed to the nonelected subject matter during the pendency of this application under 35 U.S.C. § 121, or to file an application claiming priority from this application.

Applicant requests examination of the elected subject matter on the merits.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing 578632000201. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 19, 2005

Respectfully submitted,

By 

Mika Mayer

Registration No.: 47,777

MORRISON & FOERSTER LLP

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Palo Alto, California 94304

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pa-950205